

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:21-cv-00068-MR**

JONATHAN ANTHONY LEE TORRES,)

Plaintiff,)

vs.)

TODD ISHEE, et al.,)

Defendants.)

ORDER

THIS MATTER is before the Court on the North Carolina Department of Public Safety's (NCDPS) sealed Notice [Doc. 31] regarding the Court's Request for Waivers of Service [see Doc. 28].

The pro se Plaintiff brought this action pursuant to 42 U.S.C. § 1983 addressing incidents that allegedly occurred at the Marion Correctional Institution. The Second Amended Complaint passed initial review against Defendants Todd Ishee, Benjamin Carver,¹ Robert Bret Bullis,² David

¹ "Ben Carver" in the Second Amended Complaint. [Doc. 25 at 2].

² "FNU Bullis" in the Second Amended Complaint. [Doc. 25 at 3].

Cothron, Gregory Scott Swink,³ Briana Suttles,⁴ Mark A. Ervin,⁵ Cindy Haynes, Charles Bumgarner,⁶ Benjamin Coffey,⁷ Nathan Ingram,⁸ Jeffrey Brendle,⁹ and Saint Tapp. [Docs. 15, 27]. Service waivers have been filed for all of the Defendants except for Defendant Ervin. [Doc. 32]. NCDPS was unable to waive service for Defendant Ervin, who is longer employed at NCDPS. [Doc. 31]. NCDPS has provided Defendant Ervin's last known address under seal. [Id.].

The Clerk will be directed to notify the U.S. Marshal that Defendant Ervin needs to be served with the summons and Second Amended Complaint in accordance with Rule 4 the Federal Rules of Civil Procedure. If Defendant Ervin cannot be served at the addresses provided by NCDPS, the U.S. Marshal shall be responsible for locating his home addresses so he may be served. See 28 U.S.C. § 1915(d) (in actions brought *in forma*

³ "Greg Swink" in the Second Amended Complaint. [Doc. 25 at 12].

⁴ "FNU Suttle 'Female'" in the Second Amended Complaint. [Doc. 25 at 13].

⁵ "Mark Ervin" in the Second Amended Complaint. [Doc. 25 at 14].

⁶ "FNU Bumgarner" in the Second Amended Complaint. [Doc. 25 at 13].

⁷ "FNU Coffee" in the Second Amended Complaint. [Doc. 25 at 14].

⁸ "FNU Ingram" in the Second Amended Complaint. [Doc. 25 at 15].

⁹ "FNU Brendle" in the Second Amended Complaint. [Doc. 25 at 15].

pauperis under § 1915(d), “[t]he officers of the court shall issue and serve all process, and perform all duties in such cases”); Fed. R. Civ. P. 4(c)(3) (“At the plaintiff’s request, the court may order that service be made by a United States Marshal or deputy marshal or by a person specially appointed by the court. The court must so order if the plaintiff is authorized to proceed *in forma pauperis* under 28 U.S.C. § 1915....”).

If the U.S. Marshal is unable to obtain service on Defendant Ervin, the U.S. Marshal shall inform the Court of the reasonable attempts to obtain service. The U.S. Marshal shall not disclose Defendant’s home addresses to the pro se Plaintiff, and shall file any document containing such addresses under seal.

The Clerk of Court will be instructed to update the Court file with the Defendants’ correct names as reflected in this Order.

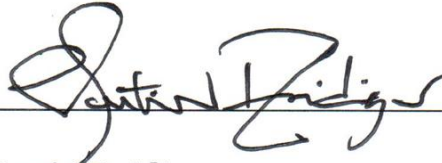
IT IS, THEREFORE, ORDERED that the U.S. Marshal shall use all reasonable efforts to locate and obtain service on Defendant Mark A. Ervin. If the U.S. Marshal is unable to obtain service on this Defendant, the U.S. Marshal shall inform the Court of the reasonable attempts to obtain service.

The Clerk is respectfully instructed to mail a copy of the Second Amended Complaint [Doc. 25], the Sealed Notice [Doc. 31], and this Order to the U.S. Marshal, and to substitute Defendants’ names as follows in the

Court's records: Benjamin Carver for "Ben Carver;" Robert Bret Bullis for "FNU Bullis;" Gregory Scott Swink for "Greg Swink;" Briana Suttles for "FNU Suttle;" Mark A. Ervin for "Mark Ervin;" Charles Bumgarner for "FNU Bumgarner;" Benjamin Coffey for "FNU Coffee;" Nathan Ingram for "FNU Ingram;" and Jeffrey Brendle for "FNU Brendle."

IT IS SO ORDERED.

Signed: May 26, 2022



Martin Reidinger
Chief United States District Judge

